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The Constitution as Counter-Revolution: A Tribute to the Anti-Federalists

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As a result of the bicentennial of the United States Constitution, Americans have found themselves inundated with books, articles, television specials and assorted other productions on every aspect of that famous document. With rare exceptions, this outpouring repeats and embellishes the standard myth about the Constitution's adoption.

This myth celebrates the Constitution as a triumphant culmination of the American Revolution. After winning their independence from the British crown - this myth runs - the American people had slid into a critical period of economic depression, political turmoil and international peril. The promising American experiment in liberty was jeopardized right at its inception because the central government, under the Articles of Confederation, was dangerously weak. Fortunately, the country's most distinguished statesmen assembled at Philadelphia during the hot summer of 1787. Through a process of judicious compromise, they hammered out a new constitution for the country, one that carefully divided power between the state and national governments. Although opposed by many irresponsible state politicians, the American people enthusiastically embraced the new plan and the country was rescued from impending anarchy.

This account is mythical not only in the neutral sense of being the established American folklore, retold in every school in text. It is mythical also in the negative sense of being largely untrue and misleading. The alleged "critical period" was not one in which independent survival of the American experiment was jeopardised. Those who assembled at the Philadelphia convention were not not disinterested demigods, nor did they intend to establish a federal system of divided government powers. The Constitution did not have the support of most Americans. And finally, rather than representing the culmination of the previous Revolution, the Constitution represented a reactionary counter-revolution against its central principles.

The American Revolution, like all great social upheavals, was brought off by a disparate coalition of competing view-points and conflicting interests. At one end of the Revolutionary coalition stood the American radicals - men such as Samuel Adams, Patrick Henry, Thomas Paine, Richard Henry Lee and Thomas Jefferson. Although by no means in agreement on everything, the radicals objected to excessive government power in general and not simply to British rule in particular. They viewed American independence as a means of securing and broadening domestic liberty. Spearheading the Revolution's opening stages, the radicals were responsible for all the truly revolutionary alterations in the internal status quo: the abolition of slavery in the northern states, the separation of church and State in the southern states, the rooting out of remaining feudal privileges everywhere and the adoption of new, republican state constitutions containing written bills of rights that severely hemmed in government power.

At the other end of the Revolutionary coalition wore the American nationalists - men such as Benjamin Franklin, George Washington, Robert Morris, Alexander Hamilton and James Madison. Representing a powerful array of mercantile, creditor and landed interests, the nationalists went along with independence but opposed the Revolution's libertarian thrust. They sought a strong and effective American central government, which would reproduce the hierarchical features of the eighteenth-century British State, only without the British.

Financing the War

The Revolution had started out as a struggle against taxation, however. What passed among the newly independent American states for a central government, the Second

Continental Congress, did not have access even to this most basic and usual of political powers. For revenue, Congress initially had to rely upon requisitions from the state governments, which could not get away with very extensive taxation themselves. Massachusetts, for instance, levied no taxes in 1776, while Virginia made no serious effort to do so until 1781.

Yet, the military strategy adopted by Congress necessitated large expenditures. Military conservatives, such as Washington, wanted to fight the Revolution according to the conventional principles of eighteenth-century warfare, with a sizeable and costly professional army. Some military radicals, such as Charles Lee, pointed toward a less orthodox military-oriented strategy along the lines of what today is called guerrilla warfare, which would have been more decentralized and less expensive. The American fear of standing armies, stemming from the well- established threat that standing armies posed to liberty, as well as each state's jealous regard for its own prerogatives, prevented the military conservatives from implementing their entire programme. But they did induce Congress to focus the Revolutionary effort upon a regular Continental Army commanded by Washington.

Congress was thus faced with the enormous task of acquiring the resources to raise and maintain the Continental Army. To this single, fateful decision can be attributed almost the entire panoply of war-time excesses. An unfunded government debt, paper money, skyrocketing inflation, price controls, legal tender laws, direct impressment of supplies and wide-spread conscription "eventually made all classes of the population feel the hard fist of governmental authority" reports financial historian E. James Ferguson. Those excesses naturally aroused resentment, and they played into the hands of the nationalists, who contended that only stronger central authority could alleviate them. By the 1781 Yorktown campaign, which closed the fighting, disgust at the army's continuing hand-to-mouth existence gave the nationalists uncontested control of Congress. They proceeded to implement a financial regime that was admittedly more orderly and efficient but that gave the central government added power.

The Articles of Confederation

Already, the Revolution had taken an important step in this direction with the drafting of the Articles of Confederation, a written constitution making the central government permanent. The Articles had first been proposed along with the Declaration of Independence, but an influential nationalist faction, land speculators, had delayed ratification until Congress was given direct jurisdiction over the states' western lands. Here we encounter the first distortion in America's constitutional myth. The Articles left Congress not too weak but in fact too strong. Although weak by modern standards and watered down from the original version. written by the nationalist John Dickinson, leader of congressional opposition to independence, the Articles nonetheless greatly expanded congressional powers and received only reluctant acceptance as a necessary war measure from American radicals. The Articles' major saving grace was that they failed to give Congress any authority to collect taxes or regulate trade.

At the time of the Articles' final adoption, the most powerful nationalist in Congress was Robert Morris, a wealthy Philadelphia merchant. The Continental currency, which Congress had issued in such reckless quantities, was now utterly worthless. The essential elements of Morris's ambitious new financial programme were: (1) concentration of the national government's power within independent executive departments headed by single administrators; (2) reorganization of the standing army along lines more compatible with General Washington's desires; (3) establishment of a central bank, patterned after the Bank of England, that could issue paper money and lend it to the government; (4) establishment of a government monopoly mint, so that government coins would replace the myriad foreign coins then in circulation; (5) restoration of public credit by honouring and consolidating Congress's outstanding debt into a perpetually financed liability; (6) assumption by Congress of state war debts, in order to "transfer creditor allegiance from

the state to the national level; (7) supply of the military by the European method of private contractors, rather than direct purchases on the market; (8) the elimination of all state-issued paper money, coupled with a requirement that the states pay all requisitions in specie rather than in kind or in paper, and (9) the securing of Congressional power to collect an assortment of taxes - a tariff, a land tax, a poll tax and a liquor excise.

A Financial Dictator

Many of these elements were eventually either incorporated directly into the Constitution or instituted afterwards by the Washington Administration. But even at this earlier date Morris managed to push through a surprising number of them as temporary war measures. Congress appointed him superintendent of the newly created Department of Finance and he became a virtual financial dictator. He filled the positions in his and other new executive departments with allies and partners, while the supervisory role of Congress declined. This followed on the heels of an army reorganisation, including a generous grant of lifetime pensions at half pay to all officers who served until the end of the war. Under the new military supply system, Morris delivered profitable war contracts to himself and his business associates. The Bank of North America received a constitutionally questionable national charter and began operations. In addition to the new bank notes, Morris issued his own personal currency, referred to as "Morris's notes". The states on the other hand retired all their outstanding paper money through a combination of taxation and devaluation. Congress authorized a national mint, and some sample coins were struck, although nothing further came of it.

The linchpin of Morris's financial system, however, was the power of taxation. Only with taxation could the nationalists' desired centralization of power be consummated. An amendment to the Articles granting Congress the power to impose an import duty looked in 1782 as if it would receive the required unanimous approval of the states. but tiny Rhode Island held out. The war was winding down, which reduced the financial pressure on the national government. This factor contributed to the apparent success of Morris's financial "reforms" but it also proved to be their ultimate downfall.

The Coming of Peace

Without war, the need to grant taxing power to Congress seemed less critical. The nationalists themselves were aware of this, and several of them bemoaned the untimely approach of peace. "(A) continuance of the war is necessary," stated Morris, "until we shall acquire the habit of paying taxes." Peace came nonetheless. Virginia soon withdrew its support for the taxing amendment, and the amendment's chances of passing evaporated.

Morris and the nationalists made a last- ditch effort in March of 1783 to coerce the states with the Continental Army, then camped on the Hudson River at Newburgh, New York. They encouraged a plot among Washington's officers, and a military coup loomed on the horizon. The radicals' suspicion of standing armies stood fully vindicated, for never has the United States been closer to succumbing to an American Caesar. At this point, however, Washington, although firmly endorsing nationalist goals, balked. His personal intervention caused the Newburgh conspiracy to disband. In the opinion of such contemporary radicals as Jefferson the "virtue of a single character has prevented this revolution from being closed as most others have been closed by a subversion of that liberty it was intended to establish." Peace completely unravelled Morris's financial and military program. The nationalists lost control of Congress in late 1783. Congress thereupon cast the Bank of North America adrift and commenced an incriminating investigation into Morris's public and private financial affairs. When Morris resigned his post, Congress replaced him in 1784 with a board of three commissioners. Finally, Congress rejected Washington's proposal for a peacetime standing army, backed up a by nationally supervised militia with universal conscription. It very wisely discharged what was left of the Continental Army, except for a remnant of eighty men and a few officers. Unfortunately, the war-induced nationalisation of the Northwest lands had shifted the

burden of policing that territory from the states to a national force of some kind. So Congress authorized a small frontier constabulary to be raised from the state militias for fixed periods. (The Southwest territory, still unceded, got along fine without Congressional attention.) Eastern land speculators, however, found this force insufficient to protect their vast claims from Indians, squatters and foreign intrigue. They looked forward instead to a strong standing army. In this desire, they were joined by many of the Continental Army's former officers. Chastened but not repentant after the Newburgh conspiracy, they had organized an hereditary fraternal association, the Society of the Cincinnati. Through this new nationalist pressure group, they campaigned for a military capable of both quelling domestic disturbances and rivalling those of European States.

War Debt

One of the nationalists' most potent political weapons was the enduring Revolutionary War debt. The major surviving impact of Morris's reign was to fasten this huge liability upon Congress as a continuing obligation. Once Congress had repudiated its paper money, there should have been no obstacle to repudiating the debt as well. After all, the states at Congress's behest had forced paper money upon the people with price controls and legal tender laws. In contrast, very little of the $35 million debt, as consolidated by Morris, resulted from expropriation. Most public creditors had voluntarily accepted the risk of default. Only $4 million of the consolidated national debt represented coerced purchases of military supplies. Of the remainder, $12 million were claims of the Continental Army for back pay, or of other public officials. And a big chunk of that resulted from Congress's commutation of its profligate lifetime pensions for the army's officers into a promise of full pay for five years. Another $8 million was owed to foreign governments. Worst of all, the final $11 million resulted from loans that had generally been made with depreciated currency. Congress had deflated these loans from a face value of $67 million, but $11 million was still an overestimate by as much as 75% of their real specie worth and thus a generous subsidy to creditors. From the standpoint of equity, the paper money claims had clear priority over the debt.

The prospect that the state governments would assume the war debt was even more politically likely than repudiation. When Morris took his post, they had already retired significant parts of the national debt. The nationalists, however, vigorously opposed state assumption; it was a method of paying off the debt that would diminish the prestige of the central government relative to the states and thereby threatened the nationalists' overriding objective. Morris effectively forestalled repudiation and, for the most part, state assumption. Lingering on, the national debt provided both a continuing rationale for national taxation and another special interest supporting such taxation.

Regulation of Trade

An equally persuasive rationale for a more powerful central government was trade regulation. Indeed, subsequent accounts have blown this rationale up into an utterly fanciful picture of competing trade barriers between the various states disrupting the American economy. The two factual instances upon which this over-blown picture is almost entirely based involve New York and Connecticut, which taxed foreign goods entering from neighbouring states. In the case of New York, this economically insignificant restriction resulted primarily from New Jersey's effort to attract trade away from the port of New York by declaring all its own ports duty free. The prevailing rule prior to the Constitution was complete reciprocity among the states. Goods entering from other states were exempt from any state duties, while merchants from other states were exempt from any state restrictions upon foreign merchants.

If a general reduction in trade restrictions was what the nationalists were really after, this would hardly have justified a central government with the power to tax. (The advocates of international trade today do not usually propose giving the United Nations the power to tax.) In reality American merchants were after uniform navigation laws discriminating against foreign shippers

in all American ports. After the Revolution they found themselves facing the restrictions, rather than enjoying the privileges, of the British Empire's navigation acts, and they wanted some coercive means of monopolizing the American carrying trade. At the same time, American artisans wanted uniform protective tariffs, unmarred by competing state exemptions. Only this would stop their potential American customers from buying the cheap foreign goods that flooded American markets at the end of the war. The unique economic fortunes of these two groups and their quest for special privileges contributed much to the exaggerated impression of post-war depression. Despite the coalescing of these various war-engendered interests, all direct efforts to strengthen the Articles of Confederation proved futile. By 1786 nearly every state had ratified a second proposed amendment to give Congress the power to collect import duties. far more restrictive than the first. But this time New York and Pennsylvania refused to go along. A proposal to give Congress authority to regulate trade was blocked by southern planters, who were reluctant to give northern merchants a shipping monopoly on southern exports. Meanwhile, Congress defaulted on interest payments for the domestic debt in 1782 and for the foreign debt in 1784. At times, Congress could not even carry on business because of lack of a quorum.

An Anti-democratic Mood

Consequently, Alexander Hamilton and James Madison, assuming leadership of the nationalists, made an end run around the Articles. They called for a special convention to meet in Philadelphia. Their proposal, according to the French consul in New York, contained "an infinity of circumlocutions and ambiguous phrases" to hide its true purpose. Assisting them was a growing anti-democratic mood throughout the country. Many Tories had returned to political life. and although they had bitterly opposed independence, they still shared the political vision of the nationalists.

An even greater cause of disillusionment with democracy was the outbreak of Shay's Rebellion in western Massachusetts in 1787. According to the nationalist rendition, as repeated countless times by historians, Shay's Rebellion was an egalitarian assault on the property rights of creditors. The rebels allegedly wanted to escape their private debts through court moratoriums and inflationary doses of paper money. This rendition has some factual basis, but not much, for it ignores the decisive role of a contemporaneous fiscal crisis at the state level. The roots of Shay's Rebellion take us back, again, to Revolutionary finance.

The state governments had acquired substantial war debts of their own. Although the inroads made by a few states toward assumption of Congress's debt had undercut the nationalist drive in the short term, it had also aggravated the fiscal straits of the states. They had to devote 50 to 90% of their post-war expenditures to the interest and principle on their debts. This required a tax burden undreamed of before the war. Seven states, beginning in 1785, issued new rounds of paper money. Paper money either substituted for taxes directly, or when loaned by the states to land owners, offered something other than scarce specie for paying taxes.

Massachusetts, however, was not one of the states issuing paper money - or giving any other kind of taxpayer relief. Moreover, it had a tax system that fell inequitably upon the state's agrarian sector. The Revolutionary historian Merrill Jensen estimated that at least a third of the average Massachusetts farmer's monetary income went to taxes after 1780. Here at least we find a substantial basis for the tale of a "critical period" depression. With post-war deflation, it was a fortunate farmer who could obtain enough specie to pay both his taxes and his debts. Shay's Rebellion was therefore more a tax revolt than a debtors' revolt. Objecting to extravagant state expenditures and heavy court fees, the rebels closed down the courts in order to halt the confiscation of property for unpaid taxes. They were not levellers attacking private contracts. As in the Revolution before and the Whiskey Rebellion after, they were carrying on the vital American tradition of direct resistance to government power. Four thousand loyal Massachusetts militia broke all resistance within six months, but Shay's Rebellion alarmed America's governing classes.

Congress voted to enlarge its frontier army from seven hundred to two thousand men. Prior to the outbreak only Virginia, Pennsylvania and New Jersey had chosen delegates to the Philadelphia convention. Subsequently, every state except Rhode Island sent delegates, and Congress even endorsed the extra-legal proceedings.

Nationalist-dominated Convention

The Philadelphia convention's official function was to propose revisions to the Articles of Confederation. But the delegates, meeting in secret, quickly decided to violate their instructions and draft a totally new document. Out of the fifty-five present, only eight had signed the Declaration of Independence. Most of the leading radicals, including Sam Adams, Henry, Paine, Richard Henry Lee and Jefferson, were absent. In contrast, twenty-one delegates belonged to the militarist Society of the Cincinnati. Overall, the convention was dominated by the nationalist factions that the prior war had forged together: land speculators, ex-army officers, public creditors and privileged merchants.

These interests wanted to establish a consolidated government, under which the states would be subordinate, like counties and local government within the states. As General Henry Knox privately confided to Washington. "the existence of the state governments is an insufferable evil"; they should be "annihilated." Although not himself present at the convention. Knox was a key nationalist serving as Secretary of War under the Articles. The Virginia Plan, which became the basis for the convention's deliberations, essentially embodied this goal of consolidated government.

Like the Revolution itself, however. the Constitution eventually turned into the hybrid product of a disparate coalition. The nationalist dream of "annihilating" the states under a national government with plenary powers slowly eroded away. Some of its erosion occurred just as America's Constitutional myth has it, through the compromises worked out within the Philadelphia convention. But most occurred outside the convention, through a subtle process of reinterpretation, when the nationalists were compelled to defend their completed handiwork before the general public.

The Struggle for Ratification

The Articles of Confederation had left the states completely sovereign, at the insistence of the radicals. When the delegates left Philadelphia, they were confident that the new Constitution in contrast would make the central government completely sovereign. The document's "*necessary and proper*" clause, "*general welfare*" clause, "*supremacy*" clause, and all-encompassing preamble implied substantial discretionary powers. The novel idea of dividing sovereignty between the national and state governments did not originate within the convention hall. Despite the fact that most Americans opposed a sovereign national government, the nationalists had much going for them as the Constitution went before the states. To begin with, they enjoyed the enormous prestige of Washington, who had presided over the Convention. Americans have always heaped blind adulation upon their military heroes, and Washington was among the first. The Constitution's supporters also were more tightly organized than their admittedly more provincial opponents, and they used their control over the central government's mail monopoly to increase this advantage further by tampering with and delaying their Opponents' mail. These combined advantages allowed the nationalists to ram the Constitution through the first five state conventions in rapid succession.

The Constitution's supporters furthermore pulled off a significant linguistic coup by successfully seizing for themselves the label "Federalist". They had in fact designed the Constitution to replace the federal system of government under the Articles of Con-federation with a national system. The true defenders of federalism were therefore the Constitution's opponents. One disgruntled "Anti-Federalist", Elbridge Gerry (who would become in 1813 the nation's sixth Vice-President), suggested that because one group was for ratifying the Constitution while one was against ratifying, "their names ought not to have been distinguished by

Federalists and Anti-Federalists, but Rats and Anti-Rats"

The Anti-Federalists further weakened their own case by acceding to the need for some additional national power, in order to make the central government independent of the state governments. This permitted the Federalists to deny vigorously but disingenuously that the Constitution would subordinate the states. Instead, it would create a delicate balance of powers between the national and state governments, each sovereign within its own realm. In other words, the much-touted federalism of the U.S. governmental system was in no way an intended consequence of the Philadelphia convention. It was an unintended and insincere concession that the Anti-Federalists wrenched from the Federalists during the ratification struggle.

A Bill of Rights

This Federalist equivocation on the powers granted the national government spilled over into the most controversial issue of the ratification struggle - the Constitution's omission of a bill of rights. This single issue united all Anti-Federalists and gained them the greatest popular support. The Articles of Confederation contained no bill of rights either, but as long as the states, which had their own bills of rights, were sovereign, that did not matter. The Federalists based their response to this Anti-Federalist objection upon a claim that the Constitution provided a government possessing only specifically enumerated powers. As a result, argued Hamilton in *The Federalist* No. 84, a bill of rights would be positively harmful. "They would contain various exceptions to powers which are not granted", and imply that the national government could do anything not specifically prohibited. The trouble with this argument was that it contradicted a second Federalist argument based on the explicit words of the Constitution. In the very same Federalist paper, Hamilton pointed out that the Constitution already contained a truncated bill of rights scattered throughout its clauses. There was a prohibition against *ex post facto* laws and bills of attainder, a ban on religious tests for holding office, guarantees to *habeas corpus* and jury trials in criminal cases, etc. If a bill of rights was positively dangerous, asked one Anti-Federalist at the Pennsylvania ratifying convention, "how happens it that in [these] instances ... that danger has been incurred?" This obvious Federalist contradiction cast justified suspicion upon their underlying claim that the Constitution created a government of delegated, rather than plenary, powers.

By the time the Constitution was under consideration in the major states of Massachusetts, Virginia and New York, the Federalists were in trouble. Previously at the Pennsylvania ratifying convention, the defeated Anti-Federalists had drawn up a proposed bill of rights, which circulated widely in other states. The Federalists themselves had to compose a series of recommended amendments in order to get the Massachusetts convention to ratify. They just barely avoided making Virginia's ratification conditional upon a series of 40 amendments passed by the convention. And at the New York ratifying convention, the Federalists not only assented to a full slate of proposed amendments, but to a circular letter calling for a second constitutional convention to frame those amendments.

The prospect of amendments mollified enough radicals to allow the Constitution barely to squeak through. The aging revolutionary, Sam Adams, was one such Anti-Federalist, finally voting for ratification at the Massachusetts convention. Jefferson, observing events from France, where he represented the United States, urged ratification, but by only the requisite nine states. The remaining states should withhold ratification until amendments were added. Other radicals, however, such as the still fiery Patrick Henry and his fellow Virginian, Richard Henry Lee, remained implacably hostile to the Constitution.

Overall, five states coupled their ratifications with proposed amendments, while in two others, the minority issued amendments. The North Carolina convention refused to ratify at all unless a bill of rights similar to the one it drew up was added and Rhode Island would have nothing to do with the Constitution whatsoever. The proposed amendments often went far beyond a simple bill of rights. In particular, a curb upon the

national government's taxation power found unanimous support in the proposed amendments. The near-addition of a taxing power to the Articles of Confederation indicates that even many Anti-Federalists had been consistently willing to permit the central government to collect import duties. They insisted that all internal taxes, however, be at the discretion of the state governments. The Anti-Federalists planned to bring about these drastic amendments to the Constitution, stripping the central government of many of its new powers, not through recommendation of Congress but through a convention called for by two thirds of the states. Unable to defeat the Constitution outright, they now pinned their hopes on a second constitutional convention that would undo the work of the first. Virginia, North Carolina and Rhode Island promptly endorsed New York's call for such a convention. However, because North Carolina and Rhode Island had not ratified the Constitution, their endorsements could not technically count toward the total. Having made the tactical decision to work within the legal framework of the new Constitution. The Anti-Federalists discovered that the resulting legitimacy they granted to the new government worked against them.

On the other end of the political spectrum, many ardent Federalists were perfectly prepared to renege on their solemn promises to amend the Constitution, now that their new national government was safely in operation. Only the politically astute Madison seemed to realize that the popular demand for a bill of rights had to be fulfilled. While privately complaining about "the nauseous project of amendments", Madison carefully culled through the more than two hundred state proposals, eliminating any that in his words might "endanger the beauty of the Government".

One die-hard Anti-Federalist denounced Madison's amendments as "little better than whip syllabub, frothy and full of wind, formed only to please the palate". Even Jefferson felt that they were not radical enough. Nonetheless, Madison successfully steered the Bill of Rights through Congress. Although these widely-publicized amendments would not be ratified for several years. They reconciled many opponents of the new government. North Carolina, for instance, immediately approved the Constitution.

Most of the Bill of Rights restricted the national government's authority over its subjects. Only one part dealt with the relationship between the state and central governments: the Tenth Amendment. A similar clause had been part of The Articles of Confederation, and every state ratifying convention that proposed amendments to the Constitution had requested just such a change. But Madison worded the amendment skilfully, to calm opponents of the Constitution, without detracting one iota from the power of the national government. Whereas the Articles had granted each state its "sovereignty, freedom and independence", the Tenth Amendment only "reserved" to the states or people all powers not "delegated to the United States by the Constitution". Obviously. how much the amendment furthered states' rights depended upon how much power the Constitution granted to the national government in the first place.

The State Consolidated its Grip

Meanwhile, the Federalists took quick advantage of an independent executive and a central taxing authority. Washington was elected President, and he appointed Hamilton as Secretary of the Treasury. Hamilton resurrected Morris's entire financial program. The First Bank of the United States received a national charter and assumed the role that Morris had previously planned for the Bank of North America. The Federalists also established a government mint, while the Constitution itself prohibited the states from issuing any more paper currency.

The central feature of Hamiltonian finance was the national debt, which between the war's end and the Constitution's adoption had grown from $35 million to $55 million, mostly through accumulating interest payments. Hamilton increased the national debt further by persuading Congress to assume $20 million worth of state war debts still outstanding. The interest on this $75 million debt accounted for almost one-half of the new government's total expenditures. To finance these expenditures, the Federalists imposed a mildly protectionist tariff, tonnage

duties that discriminated in favour of American merchants and a variety of internal taxes. The Treasury Department (which included the post office) became the government's largest, employing two thousand customs officials, revenue agents and postmasters, who swanned across the country, impressing upon the population for the first time the central government's authority.

The Constitution also bestowed authority to create a standing national military and to nationalize the state militias. "Though the point has not often been noticed", writes Walter Millis in a classic study of U.S. military policy, "the Constitution was as much a military as a political and economic charter." The Washington Administration used trouble with the Indians in the Northwest territory to justify an army of four thousand regulars, and this military establishment came to swallow more than two-thirds of that portion of national expenditures not devoted to paying interest on the debt. Although Congress refused to go along with the Secretary of War Knox's plan for a federally trained and supervised militia, the Uniform Militia Act of 1792 etched the principle of universal military obligation into national statute. A second Congressional act specified the conditions under which the militia could he called into national service and instituted heavy militia fines for failure to report when drafted.

Through the use of patronage within the new federal judiciary and the executive bureaucracy, supplemented by the pervasive influence of the debt, the public lands, the central bank and the Society of the Cincinnati, the Federalists created an effective "court party". Any doubts about the national government's grandeur were dramatically dispelled in 1794, when it smashed the Whiskey Tax Rebellion in western Pennsylvania. For this demonstration, Washington called up from four state militias no less than 12,950 men - more than he had usually commanded throughout the entire Revolution. The widespread reliance upon militia drafts to raise this overwhelming force sparked further disturbances in eastern Pennsylvania, Virginia and Maryland, but the tax resistors were thoroughly cowed.

The Republican Party

In the long run, however, the whiskey tax and other excises were the Federalists' undoing. On the basis of popular opposition to these internal taxes, Jefferson was able to organize a new political party promoting radical republicanism. Joining Jefferson in this endeavour was Madison, who abandoned the Federalists for the Republicans. (This switch has led some historians to speculate that Madison may have slightly doctored his journal of the Philadelphia convention before its posthumous publication to make the Constitution appear more consistent with his later, less nationalistic, political views. Remember that the convention was held in secret, all other accounts were very sketchy, and by the time of Madison's death there was no other delegate still alive to contradict him.)

The details of the Republicans' decade-long struggle against the Federalists need not concern us. What is important is that it culminated in Jefferson's election as President in 1800, and the victorious Republicans dismantled much of the Federalist State. In particular, they slashed military expenditures and repealed all the Federalist internal taxes. It became "the pride and pleasure of an American", boasted Jefferson in his second inaugural address, "to ask, what farmer, what mechanic, what labourer, ever sees a tax gatherer of the United States?" Except for a brief moment during the subsequent War of 1812. The national government's sole sources of revenue would remain until the Civil War only import duties and the sale of public lands. The Anti-Federalists had failed to secure a constitutional amendment confining the two levels of government to independent sources of revenue, but this came to be the exact way the two levels operated in practice - a tariff for the central government and internal taxes for the state.

The Anti-Federalist Victory

In short, the Anti-Federalists lost on the ratification question, but they won on the question of how the Constitution would operate in practice. The Tenth Amendment

symbolized this victory. True, on a purely literal level the amendment did nothing to restrain the national government. But on a deeper, symbolic level, it indicated that the Constitution had not ushered in a consolidated national system of government as the Federalists had intended, but a truly federal system, which is what the Anti-Federalists had wanted. To oversimplify only slightly, the Federalists got their Constitution, but the Anti-Federalists determined how it would be interpreted.

Of course, even an Anti-Federalist interpretation of the Constitution left a central government that was unnecessarily strong. The demand for national taxation and regulation did not stem from any genuine crisis facing the newly independent America, but rather from the desire of powerful vested interests to preserve and enhance their privileges by duplicating the political economy of the British Empire. National taxation was not needed to retire the Revolutionary debt, the central government's major expenditure. The states would have assumed that morally dubious obligation. And national regulation was not needed to break down internal trade bafflers. Free trade already prevailed among the states.

Nevertheless, if Americans wish to celebrate a document that once limited the power of government, then they should not pay tribute to the so-called Federalists who wrote the document in order to undermine such limitations. They instead should pay tribute to the Anti-Federalists who opposed the Constitution. The current homage given federalism - at a time when abjectly subservient state governments make the concept operationally meaningless - bears witness to the intellectual durability of the unrecognised Anti-Federalist triumph. To the extent that the Constitution ever actually limited the national government, we have only them to thank.

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